

**COMMONWEALTH OF MASSACHUSETTS**

**SUFFOLK, ss.**

**BUILDING CODE APPEALS BOARD  
DOCKET NO.: 11-1009**

\_\_\_\_\_  
Robert Carasitti,  
Appellant

v.

\_\_\_\_\_  
Harold McGonagle,  
Appellees

**BOARD'S RULING ON APPEAL**

**Introduction**

This matter came before the State Building Code Appeals Board ("Board") on appellant's appeal filed pursuant to G.L. c.143, §100 and 780 CMR 122.1. In accordance with 780 CMR 122.3 the appellant petitioned the Board to make a determination based on the Sixth Edition of the Massachusetts State Building Code ("Code"). For the following reasons, the appellant will be granted a variance to allow the use of the delayed egress features of 780 CMR 1017.4.1.2.

The appellant requested that the Board grant a variance from the Code's restriction that Use Group A facilities may not utilize a delayed egress feature using a 30 second delay time. Robert Carasitti, Zaneer Shaw, architect, Greg Thomson, hardware consultant, Anthony Amore, Director of Security, and Michael Holland, representing the museum owners, appeared on behalf of the appellant. All witnesses were duly sworn.

**Procedural History**

The Board convened a public hearing on June 21, 2011, in accordance with G.L.c. 30A, §§10 & 11; G.L.c. 143, §100; 801 CMR 1.02; and 780 CMR 122.3. All interested parties were provided with an opportunity to testify and present evidence to the Board.

**Findings of Fact**

The Board bases the following findings upon the testimony presented at the hearing. There is substantial evidence to support the following findings:

1. The property at issue is located at 25 Evans Way, Boston, MA 02115.
2. The subject of this appeal is related to the delayed egress features of 780 CMR 1017.4.1.2.
3. The subject property is a new construction being added to an existing art museum classified as Use Group A.
4. The property has a special exhibition space which often displays very rare exhibits. There are two interior doors at either end of the special exhibition corridor.
5. The property has two exterior gates that lead out from the courtyard to Evans Way and Palace Road.

6. 780 CMR 6<sup>th</sup> Edition, Section 1017.4.1.2 permits a time delay on means of egress, but does not apply to Use Group A occupancy.

### **Analysis**

#### **A. Jurisdiction of the Board**

There is no question that the Board has jurisdiction to hear this case. The governing statute provides that:

Whoever is aggrieved by an interpretation, order, requirement, direction or failure to act by any state or local agency or any person or state or local agency charged with the administration or enforcement of the state building code or any of its rules and regulations, except any specialized codes as described in section ninety-six, may within forty-five days after the service of notice thereof appeal from such interpretation, order, requirement, direction, or failure to act to the appeals board. G.L. c.143, §100.

The issues giving rise to this matter directly implicate provisions of the Code. As such, this Board has jurisdiction to decide this case pursuant to G.L. c. 143, §100.

#### **B. State Building Code requirements**

The issue in this case is whether the appellant shall be granted a variance to allow for the limited use of delayed egress features as identified in 780 CMR 1017.4.1.2. 780 CMR 1017.4.1.2 permits special locking arrangements in which a means of egress may be on a time delay of 15 seconds or 30 seconds with the approval of a code official. However, this section does not apply to Use Group A occupancies.

The appellant testified that there are two exterior gates and two interior doors on which they would like to install a 30-second time delayed egress feature. The appellant testified that the two exterior gates are located within the courtyard area of the property and exit onto Evans Way and Palace Road, and that the two interior doors are located at either end of a special exhibit space which often displays very rare and valuable exhibits. The appellant testified that the proposed delayed egress would serve as a last line of defense to prevent theft. The appellant testified that the gates and doors at issue will have a button on them which an individual will need to push in order for the door to open in 30 seconds. The appellant testified that security will be available to disengage the delay if necessary and to manage crowd control, and that there are several other means of egress in addition to those at issue such that individuals would not be required to pass through the time delayed exits.

### **Conclusion**

A motion was made by Jacob Nunnemacher and seconded by Brian Gale to grant a variance to allow the use of the delayed egress features of 780 CMR 1017.4.1.2 in light of the fact that the Boston Inspectional Services Department has no opposition to the variance request and on the condition that (1) signage is placed on each door which distinguishes that the button must be pushed so that the door will be open in 30 seconds, (2) the stoppers will be colored either red or yellow with the exit wording on them, and (3) there will be a person who can manually open the exits from a

control center when the areas are occupied. The motion passed. The appellant's request for variance is hereby **granted**.

---

Brian Gale

---

Jacob Nunnemacher

---

Doug Semple

*Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to Superior Court in accordance with G.L. c.30A, §14 within 30 days of receipt of this decision.*

DATED: September 30, 2011